Withdrawn 2/15/72

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Ways & Means - Pass per amend. 5/5
" " " 1/10/72

SENATE FILE 410

By POTTER and KEITH

Passed Senate, Date_____ Passed House, Date_____

Vote: Ayes_____ Nays_____ Vote: Ayes_____ Nays_____

Approved_____

A BILL FOR

An Act relating to the taxation of real estate transfers and the penalty for failure to comply.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

S.F. 410

Section 1. Section four hundred twenty-eight A point one (428A.1), Code 1971, is amended as follows:

428A.1 AMOUNT OF TAX ON TRANSFERS. There is ~~hereby~~ imposed on each deed, instrument, or writing by which any lands, tenements, or other realty in this state shall be granted, assigned, transferred, or otherwise conveyed, a tax determined in the following manner. When there is no consideration ~~or when the consideration, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, is one thousand dollars or less,~~ there shall be no tax. When ~~the consideration, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds one thousand dollars,~~ there is consideration the tax shall be one dollar ten cents plus fifty-five cents for each five hundred dollars or fractional part of five hundred dollars ~~in excess of one thousand dollars~~. The term "consideration", as used in this chapter, means the full amount of the actual sale price involved, paid or to be paid, including the amount of an encumbrance or lien on the property, whether assumed or not by the grantee. In the case of a gift of realty, or any deed with nominal consideration or without stated consideration, the consideration shall be the current market value of the property transferred.

Sec. 2. Section four hundred twenty-eight A point two (428A.2), Code 1971, is amended as follows:

428A.2 EXCEPTIONS. The tax imposed by this chapter shall not apply to:

1. Any executory contract for the sale of land under which the vendee is entitled to or does take possession thereof, or any assignment or cancellation thereof.

2. Any mortgage or any assignment, extension, partial release, or satisfaction thereof, except those included in the sales of real property.

3. Any will.

4. Any plat.

1 5. Any lease.
2 6. Any deed, instrument, or writing in which the United
3 States or any agency or instrumentality thereof or the state
4 of Iowa or any agency, instrumentality, or governmental or
5 political subdivision thereof is the grantor, assignor,
6 transferor, or conveyor; and any deed, instrument or writing
7 in which any of such unit of government is the grantee or
8 assignee where there is no consideration ~~or where the~~
9 ~~consideration does not exceed one thousand dollars~~.
10 7. Deeds for cemetery lots.
11 8. Deeds which secure a debt or other obligation, except
12 those included in the sale of real property.
13 9. Deeds for the release of a security interest in property
14 excepting those pertaining to the sale of real estate.
15 10. Deeds which, without additional consideration, confirm,
16 correct, modify, or supplement a deed previously recorded.
17 11. Deeds between husband and wife, or parent and child,
18 without actual consideration.
19 12. Tax deeds.
20 13. Deeds of partition where the interest conveyed is
21 without consideration. However, if any of the parties take
22 shares greater in value than their undivided interest a tax
23 is due on the greater values, computed at the rate set out
24 in section 428A.1.
25 Sec. 3. Section four hundred twenty-eight A point three
26 (428A.3), Code 1971, is amended as follows:
27 428A.3 WHO LIABLE FOR TAX. Any person, firm or corpo-
28 ration who grants, assigns, transfers, or conveys any land,
29 tenement, or realty by a deed, writing, or instrument subject
30 to the tax imposed by this chapter shall be liable for such
31 tax but no public official shall be liable for a tax with
32 respect to any instrument executed by him in connection with
33 his official duties.
34 Sec. 4. Section four hundred twenty-eight A point four
35 (428A.4), Code 1971, is amended as follows:

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428A.4 RECORDING REFUSED. The county recorder shall refuse to record any deed, instrument, or writing, taxable under the provisions of section 428A.1 on which documentary stamps in the amount ~~stated thereon~~ evidencing payment of the tax determined on the full amount of the consideration in the transaction have not been affixed ~~or without a statement on said deed, instrument, or writing that the same is exempt.~~ However, if the deed, instrument, or writing, is subject to an exception provided for in section 428A.2, the county recorder shall not refuse to record the document if there is filed with or endorsed on it a statement signed by either the grantor or grantee or his authorized agent, that the instrument or writing is excepted from the tax under section 428A.2. The validity of the effectiveness of an instrument as between the parties thereto, and as to any person who would otherwise be bound thereby, shall not be affected by the failure to comply herewith; nor if an instrument is accepted for recording or filing contrary to the provision hereof, shall the failure to comply herewith destroy or impair the record thereof as notice.

Sec. 5. Section four hundred twenty-eight A point ten (428A.10), Code 1971, is amended as follows:

428A.10 PENALTY. Any person, firm or corporation liable for the tax imposed by this chapter who knowingly fails to comply with the provisions of ~~section~~ sections 428A.5 and 428A.6 relating to the attachment or cancellation of documentary stamps, ~~unless such failure is shown to be due to reasonable cause shall be liable to a civil penalty of twenty-five dollars for each such failure~~ shall be subject to a fine of not less than one hundred dollars nor more than five hundred dollars.

~~Any person who willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty of fifty percent of the total amount of the underpayment of~~

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1 ~~the tax.~~
2 Sec. 6. This Act, being deemed of immediate importance,
3 shall take effect and be in force from and after its
4 publication in The Marion Sentinel, a newspaper published
5 in Marion, Iowa, and in The Humboldt Republican, a newspaper
6 published in Humboldt, Iowa.
7 EXPLANATION
8 This bill provides that the full sale price or full consid-
9 eration involved in each real estate transaction shall be
10 subject to the real estate transfer tax unless the document
11 or instrument comes within certain exceptions contained in
12 the bill. The present law excludes from the tax the amount
13 of a mortgage remaining on the real estate being transferred,
14 and this has the effect of holding down considerably the
15 amount of revenue from such tax. States which tax mortgages
16 or include the mortgage value in the taxation of real estate
17 transfers include Arkansas, Colorado, Kansas, Nebraska, Okla-
18 homa, South Dakota, Tennessee, Washington, and some others.
19 It is estimated that if Chapter 428A, Code 1971, were amended
20 as provided in this bill the present annual revenue of $832,000
21 would be increased to some extent. It would also improve
22 the data and information considerably for use in conducting
23 the assessment/sales ratio study under Section 421.17,
24 subsection 6, of the Code.
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SENATE FILE 410

1 Amend Senate File 410, Page 4, after line 20, by
2 adding the following new section:
3 1. "Sec___. Section four hundred twenty-eight A
4 point eight (428A.8), Code 1971, is amended by striking
5 the section and inserting in lieu thereof:
6 428A.8 DISTRIBUTION OF PROCEEDS. On or before the
7 tenth day of each month the county recorder shall determine
8 and pay to the treasurer of state seventy-five percent
9 of the receipts from the sale of documentary stamps during
10 the preceding month and the treasurer of state shall
11 deposit such receipts in the state treasury to the credit
12 of the general fund.
13 The county recorder shall deposit the remaining twenty-
14 five percent of the receipts to the credit of the county
15 general fund.
16 The county recorder shall keep such records and make
17 such reports with respect to the documentary stamps
18 entrusted to his custody and with respect to the sale of
19 such stamps as the director of revenue shall prescribe."
20 2. Renumber the remaining sections accordingly.

Filed By BRILES
January 18, 1972

1 Amend Senate File 410 as follows:
2 1. Page 2, line 7, by adding after the word "consideration" the
3 words "or when the deed instrument or writing is executed and
4 tendered for recording as an instrument corrective of title, and
5 so states,".
6 2. Page 2, line 13, by adding after the word "consideration" the
7 words "and the actual market value of the property transferred is
8 in excess of five hundred dollars ($500.00)".
9 3. Page 2, by striking in line 14 the words "one dollar ten cents
10 plus", and by inserting the words "~~one dollar ten cents plus~~".
11 4. Page 2, line 16, by striking the words "~~in excess of~~" and insert-
12 ing the words "in excess of five hundred dollars".
13 5. Page 2, by striking in lines 19 and 20 the words ", whether
14 assumed or not by the grantee".
15 6. Page 2, line 31, by inserting after the first word "Any" the
words "instrument of".
7. Page 2, line 31, by striking the words "or any" and inserting
the words ", ~~or any~~".
8. Page 2, by striking in lines 32 and 33 the words ", except
those included in the sale of real property".
21 9. Page 3, by adding the following new subsection after line 24"
22 "14. The making or delivering of instruments of transfer resulting
23 from any corporate merger, consolidation or reorganization under the
24 laws of the United States or any state thereof, where such instrument
25 so states on the face thereof."

Filed By COMMITTEE ON WAYS AND MEANS
May 5, 1971 SHAFF, Chairman